

**DEPOSITION  
OF  
ANTONIO PRENTIS MOORE**

1 other police officers told you you  
2 couldn't park there?

3 A. At least one.

4 Q. At least one time?

5 A. Yes.

6 Q. And can you describe that police  
7 officer?

8 A. No, I can't.

9 Q. Was he white or black, or do you  
10 recall?

11 A. I believe it was a white officer.  
12 I don't really recall.

13 Q. And what did that officer tell you?

14 A. To simply -- this is -- I'm  
15 paraphrasing because I don't remember  
16 exactly, but this is supposed to be for  
17 police cars or police officers, I believe  
18 was his word. I really don't remember,  
19 but something to that effect.

20 Q. And did you respond?

21 A. No, I didn't.

22 Q. When Officer McNeil told you on one  
23 prior occasion that you were not supposed  
24 to park there, what was his demeanor, if  
25 you will?

1 start to count the money and stop or  
2 anything like that?

3 A. No.

4 Q. Did you notice any Kroger employees  
5 outside the store in this area at the time  
6 you got out of your truck and Officer  
7 McNeil made this first comment to move the  
8 truck?

9 A. No.

10 Q. And when you said, "Officer, I need  
11 to make a deposit," you may or may not  
12 understand what I mean, but did you say it  
13 with any sort of attitude or sarcastically  
14 or in any way, or did you matter-of-factly  
15 make the statement?

16 A. As I would in a normal tone of  
17 voice, I made the statement.

18 Q. And then what response did he have  
19 to that?

20 A. He said, "Move the truck, or go to  
21 jail."

22 Q. And what was your response?

23 A. "I'm just going in for a minute if  
24 you have to give me a ticket or tow it,  
25 but I need to make the deposit."

1 Q. And where was he located, and where  
2 were you when you made that statement?

3 A. He was closer to me and the truck.

4 Q. Where were you in relation to your  
5 truck at that point?

6 A. Near the parking spot, near the  
7 sign in the parking lot.

8 Q. To speak with you from where he was  
9 located on the sidewalk in front of the  
10 store, would he have to yell?

11 A. No. He approached me as I exited  
12 the truck.

13 Q. Okay. And so, when you had this  
14 conversation where he said, "Move the  
15 truck," and you said, "Officer, I need to  
16 make a deposit," and he said, "Move the  
17 truck or go to jail," and you said, "If  
18 you have to give me a ticket or tow it,  
19 okay, but I need to make a deposit," where  
20 were you two located then? You were by  
21 your truck still?

22 A. We were closer to the center of the  
23 little street -- little traffic thruway  
24 there.

25 Q. Were you out in where cars drive?

1       A. At this point, we were -- as I  
2       exited, again, he's -- he started to  
3       approach me. And when I got out of the  
4       truck, I was walking directly into  
5       Kroger's, towards Kroger's. I didn't make  
6       it to even the sidewalk when we were  
7       talking.

8       Q. So, both of you were off the  
9       sidewalk?

10      A. Yes.

11      Q. The street in front of the sidewalk  
12      there?

13      A. Approximately the fire lane at that  
14      point.

15      Q. Do you have any information that  
16      Kroger directed Officer McNeil to make the  
17      statement that you said he made, which is,  
18      "Move the truck or go to jail"?

19      A. Do I have any?

20      Q. Do you have any information that  
21      Kroger directed him to make a comment --

22      A. No.

23      Q. -- a statement like that? All  
24      right. So after you said, "I really need  
25      to make this deposit. Either give me a

1 the officer had stopped me period and the  
2 fact that he had called the additional car  
3 for me to be transported is that I was  
4 under arrest.

5 Q. You hadn't been put in handcuffs  
6 yet?

7 A. When Officer Schulte got there, I  
8 was put in handcuffs.

9 Q. Who put the handcuffs on you?

10 A. Officer Schulte.

11 Q. Do you know what handcuffs he used,  
12 his own or --

13 A. I believe they were his own.

14 Q. And did he ask you to move the  
15 truck before he put the handcuffs on?

16 A. I believe he did.

17 Q. And are you saying that it was your  
18 impression that when Officer Schulte got  
19 there and asked you to move the truck that  
20 he was going to have you move the truck  
21 and then still put you in cuffs and take  
22 you down to the station?

23 A. No. I'm saying that based on  
24 Officer McNeil telling me that I was being  
25 arrested --

1 Q. Did they cuff you behind your back?

2 A. Yes.

3 Q. And they put you in which vehicle?

4 A. Schulte's vehicle.

5 Q. In the backseat?

6 A. Yes.

7 Q. And you asked -- was it Schulte to  
8 have his supervisor come to the store?

9 A. I believe that I did request that  
10 after Schulte arrived.

11 Q. After Schulte arrived, did you have  
12 any other conversations with McNeil?

13 A. No.

14 Q. And as I understand it, you don't  
15 have any recollection of hearing any  
16 conversation that McNeil had with Schulte  
17 or the other officer or Lieutenant Bly?

18 A. No. When Lieutenant Bly arrived, I  
19 was in the back of Schulte's vehicle.

20 Q. You were already cuffed and in the  
21 vehicle when Bly arrived?

22 A. Yes. That's correct.

23 Q. And Bly came up to the cruiser to  
24 speak with you?

25 A. That's correct.

**DEPOSITION  
OF  
POLICE OFFICER MARCUS McNEIL**



1 A. This day?

2 Q. On June 21st of 2001?

3 A. Where -- He was parking his truck in  
4 the parking space that's on the pictures here.

5 Q. Okay. And how far away, roughly, is  
6 the parking space from where you were standing?

7 A. About maybe 50 feet, maybe.

8 Q. Okay. And so you saw Mr. Moore pull  
9 in and parked, parked his truck in this parking space  
10 and that's, again, we're referencing the "Reserved  
11 for Police Vehicles Only," space, depicted in  
12 Plaintiff's Exhibit 1; correct?

13 A. Right.

14 Q. What do you then do as you see Mr.  
15 Moore pull into the space?

16 A. Walk up to him and ask him, you know,  
17 just take notice of the sign and that's for police  
18 cars only.

19 Q. And what did he say?

20 A. I can't remember his exact words. He  
21 became agitated. He began to talk about the Justice  
22 Department and the police is corrupt and -- I can't  
23 remember everything that he said, the specific  
24 details that he said --

25 Q. Um-hum, I understand.

1 Q. So the crowd was about 40 feet away?

2 A. Maybe -- Yes, roughly, from a parking  
3 spaced.

4 Q. Okay.

5 A. They were probably another 12-to-15  
6 feet away from my back.

7 Q. Now, you showed Mr. Moore the, the  
8 parking sign. Did you point that out to Mr. Moore?

9 A. Yes.

10 Q. The reserved only --

11 A. On, on several different occasions.

12 Q. And what did Mr. Moore respond? How  
13 did he respond in reference to the parking sign, if  
14 you recall?

15 A. Normally, his response is, "Do what  
16 you got to do," and he goes in the bank. He goes --  
17 He just on about his business and that's that. This  
18 particular day, he chose to stay out in the parking  
19 lot and have a confrontation with me.

20 Q. Okay. Let me go back a minute. You  
21 said, "normally." So he's been at that parking space  
22 before? You've observed him --

23 A. Right.

24 Q. -- parking in that space before?

25 A. You asked me earlier have I ever had

1 contact with him and I told you just on this, this  
2 situation --

3 Q. Okay.

4 A. -- with the parking space.

5 Q. On the other days, though --

6 A. Correct.

7 Q. -- prior to June 21st?

8 A. Correct.

9 Q. And you've told him on other occasions  
10 not to park in this reserved, only, parking space?

11 A. I've asked.

12 Q. Or you've asked him, move your  
13 vehicle?

14 A. Correct.

15 Q. Which he has never done; is that your  
16 testimony?

17 A. Correct.

18 Q. And in response to that, have you had  
19 occasion to do anything on prior occasions?

20 A. No.

21 Q. Have you ever went and got a store  
22 manager on prior occasions about Mr. Moore's vehicle  
23 being in the reserved only, "Reserved for Police  
24 Vehicles Only," space?

25 A. No.

1 A. Initially, yes.

2 Q. Okay. Initially, then what did it  
3 change to?

4 A. His behavior.

5 Q. Did you engage in any type of  
6 conversation with him in reference to his other  
7 comments about the Police Department, the Justice  
8 Department, what's goin' on here in the city?

9 A. No.

10 Q. At what point did your conversation  
11 turn to Mr. Moore's behavior?

12 A. I guess the -- What started to make me  
13 become more aware of the situation is when the first  
14 outburst came from behind me. The other people  
15 started to get involved.

16 Q. Okay. So once other people started to  
17 get involved, you then --

18 A. Called for backup.

19 Q. Called for backup. And are you saying  
20 that other people were becoming involved because of  
21 Mr. Moore's actions?

22 A. Just -- I guess I would say just  
23 because of there was some activity goin' on between  
24 the police and another person, period.

25 Q. That would cause the crowd to get

1 the dispatcher?

2 A. I can't remember. I think the car,  
3 the detail number is 5976, "Can you start me another  
4 car towards Krogers?"

5 Q. No other details as to --

6 A. She'll say, "What do you have there,"  
7 disorderly subject.

8 Q. Okay. And that's what you stated?

9 A. Correct.

10 Q. Now, another police officer eventually  
11 arrived; correct?

12 A. Correct.

13 Q. And would that have been Police  
14 Officer Schulte?

15 A. Yes, he was one of 'em.

16 Q. And who were the other ones, if any?

17 A. His partner was Officer Joehonny Reese  
18 and Lt. Bley also arrived.

19 Q. Now, Officer Schulte and Officer Reese  
20 were in one vehicle?

21 A. Yes.

22 Q. And Lt. Bley was in a separate  
23 vehicle?

24 A. Correct.

25 Q. So they pulled up to the parking lot.

1 Who arrived first?

2 A. Officer Schulte.

3 Q. He was the driver?

4 A. I can't remember if he was driving or  
5 he was a passenger.

6 Q. And how long thereafter did Lt. Bley  
7 arrive?

8 A. I can't remember.

9 Q. But shortly thereafter?

10 A. Um-hum.

11 Q. And where did Officer Schulte and  
12 Officer Reese pull their vehicle?

13 A. I can't remember.

14 Q. Do you know if they parked it in a  
15 space?

16 A. I can't remember.

17 Q. What about Lt. Bley, do you know where  
18 he pulled his vehicle?

19 A. I can't remember.

20 Q. Did they have the headlights flashing  
21 on the vehicles?

22 A. Not that I know. I can't remember.

23 Q. Okay. What about sirens, did they  
24 have sirens on the vehicles?

25 A. No, there wasn't; no.

1 Q. Did you tell Mr. Moore that he was in  
2 violation of the law for parking his vehicle in this  
3 space?

4 A. No. Are you talking about for his  
5 arrest?

6 Q. No, I'm sorry; with respect to the  
7 parking, with him parking his vehicle in the  
8 reserved-for-police-vehicles-only space?

9 A. No, I didn't tell him he was in  
10 violation of the law.

11 Q. Okay.

12 A. It was a violation of Kroger law, not  
13 police law.

14 Q. And I'm not sure if I asked this  
15 already, but did you ask anyone from Krogers if they  
16 wanted to sign a complaint against Mr. Moore for  
17 parking in this space?

18 A. No.

19 Q. And did you ask Mr. Moore -- I'm  
20 sorry. Did you ask anyone from Krogers if they  
21 wanted to have Mr. Moore's vehicle towed from this  
22 space?

23 A. No, I didn't.

24 Q. Okay. Now, was there a manager  
25 outside, from Krogers, during this incident with Mr.

1 Moore?

2 A. I can't recall.

3 Q. Do you recall speaking to a manager  
4 while you were outside?

5 A. While we were outside?

6 Q. Um-hum.

7 A. No.

8 Q. Now, at any point during this incident  
9 with Mr. Moore, did you become upset?

10 A. No.

11 Q. Did you ever become agitated in  
12 dealing with Mr. Moore?

13 A. No.

14 Q. So the fact that Mr. Moore did not  
15 want to move his vehicle, that didn't bother you in  
16 any way?

17 A. No, it didn't. In fact, if he'd just  
18 kept walking to the store, this probably would have  
19 been the same as any other occasion; that would have  
20 been that, but this day, he chose to stand outside and  
21 have a confrontation with me.

22 Q. Okay. How many times, roughly, would  
23 you say that you've asked Mr. Moore to move his  
24 vehicle?

25 A. Two, three, tops.



1 A. No.

2 Q. And were there customers and patrons  
3 still coming in and out of Krogers during this time?

4 A. Yes.

5 Q. How long, if you recall was Police  
6 Officer Schulte at the scene, say from the time he  
7 arrived to the time he transported Mr. Moore to the  
8 Justice Center?

9 A. I can remember how long.

10 Q. More than 15 minutes?

11 A. It's possible. I can't remember.

12 Q. And what about once Mr. Moore is  
13 handcuffed, is he still making the same statements as  
14 he was making previously?

15 A. Well, once he's handcuffed, he's inside  
16 the car, so at that time, the situation that I was  
17 trying to de-escalate, it was over. So whatever he  
18 had to say inside the car, I didn't pay it no mind.

19 Q. Now, just to make sure I have this  
20 clear, Mr. Moore was arrested for disorderly conduct?

21 A. Correct.

22 Q. And is it your testimony, officer,  
23 that his behavior and -- Well, I'm sorry; you said,  
24 "his actions," you said he had a raised voice; is  
25 that correct?

**DEPOSITION  
OF  
POLICE OFFICER MICHAEL PAUL SCHULTE**

1 Kroger's tell you that specifically what those  
2 parking spaces were for?

3 A. Specifically, no, like I never asked.

4 Q. Okay. So the information -- Your  
5 belief is just based on the fact that that's what the  
6 signs say?

7 A. Yeah, I mean I just read what it said.

8 Q. Okay. Just like a self-explanatory  
9 police vehicles?

10 A. Yeah, that's the way I took it anyways.

11 Q. Okay. Okay, that's fine. Okay. Now,  
12 let's talk about June 21st. How did you come to  
13 arrive at the Kroger's?

14 A. We were asked to respond there by the  
15 officer who was working the detail.

16 Q. And that would have been Police Officer  
17 McNeil?

18 A. That's correct.

19 Q. Okay. What exactly was communicated to  
20 you?

21 A. I don't remember exactly what he said,  
22 he just asked for -- The best I can remember is he  
23 just asked for a car to respond to Kroger's, I  
24 believe for disorderly subject, something I think.

25 Q. Okay. Where were you coming from at

1 any discussion --

2 A. I personally did not talk to any Kroger  
3 employees, no.

4 Q. Okay. And basically, I just want to  
5 make sure that I have this clear. You said that his,  
6 that Mr. Moore was, had become disorderly, you were  
7 giving him the alternative to calm down and move the  
8 vehicle --

9 A. Yeah.

10 Q. -- or be arrested?

11 A. Once, yes. Once he began cursing at me  
12 that was when I made the decision to place Mr. Moore  
13 under arrest, like I said.

14 Q. And you believe that cursing is  
15 disorderly conduct?

16 MR. HARRIS: Objection, asked and  
17 answered, but you can answer again. Excuse me, you  
18 can answer it again.

19 A. Cursing alone, no, I don't believe that  
20 is disorderly conduct, but when you carry yourself in  
21 a manner that is offensive to other people and when  
22 you carry yourself in a manner that presents a risk of  
23 harm to somebody such as carrying yourself in a manner  
24 that causes a crowd to gather, okay, for one there  
25 were myself and two other officers there and we were

1 outnumbered, like I said there was maybe 10 people  
2 there. I don't know if they were there just to watch,  
3 I didn't know if they knew Mr. Moore, I had no idea,  
4 okay. So to answer your question, cursing alone, no,  
5 that is not disorderly conduct. I think everybody in  
6 this room has cursed before, but when you use it  
7 doing it in such a manner that it's offensive to  
8 people, to children, you know, in a business such as  
9 Kroger's and you do it carrying yourself like Mr.  
10 Moore did, I believe that is disorderly conduct.

11 Q. Officer, you would agree with me that  
12 often times when there are three police officers  
13 present, another individual, a crowd will gather?

14 MR. HARRIS: Objection. Speculation,  
15 you can answer.

16 A. Sometimes, sometimes when there's one  
17 police officer a crowd is going to gather.

18 Q. Okay. When did officer, I'm sorry,  
19 Lieutenant Bley arrive at the scene?

20 A. I don't know exactly the time, I  
21 believe Mr. Moore was already in our police car when  
22 Lieutenant Bley arrived there.

23 Q. Okay. And how did he come to arrive  
24 at the scene, at Kroger's?

25 A. To be honest with you I don't know. I



1 don't know if Officer McNeil called him or Officer  
2 Reese had called him, I didn't ask for a supervisor to  
3 show up. On something like that, I don't -- I only  
4 call for a supervisor if I feel I need some advice or  
5 some help or something like that, I don't know -- To  
6 be honest with you, like I said I don't know who  
7 called him to be there, I think Officer Reese  
8 requested a supervisor.

9 Q. Okay. But at that point you believe  
10 Mr. Moore was in your cruiser?

11 A. I think, I'm almost positive that he  
12 was.

13 Q. Okay. Who actually cuffed Mr. Moore?

14 A. I believe I did.

15 Q. Did you read him his Miranda rights?

16 A. I don't know if I did or not, I don't  
17 remember.

18 Q. Okay.

19 A. I may not have.

20 Q. Okay. So he's placed in the back of  
21 your cruiser, Lieutenant Bley arrives. Did you speak  
22 with Lieutenant Bley?

23 A. Briefly. He just pretty much asked  
24 what was going on, told him and, you know, he was  
25 like, you know, okay, he asked, you know, are you

1 A. Well, I was going to try to answer your  
2 question.

3 Q. Okay. Yeah, go ahead.

4 A. You know, once, once he was, when I  
5 talked to McNeil originally, I mean, I don't -- I  
6 would imagine that Officer McNeil could have, based on  
7 what he told me he could have arrested Mr. Moore for  
8 that charge. Then once I spoke with him and he was  
9 placed under arrest -- Like I said I don't remember  
10 if there was any, you know, if we got other and  
11 huddled up or anything, I don't know what you're  
12 getting at, you know, I mean the charge is what it  
13 is, you know, there's nothing that we would have had  
14 to add to make it stick or anything like that, I mean  
15 I just wrote down what happened.

16 Q. Okay. And that's what I was asking,  
17 I'm just trying to see when it was determined that he  
18 would be charged with disorderly conduct, was that  
19 something McNeil told you when you arrived or just  
20 from your own observations and what McNeil had  
21 described as his behavior, you just said, okay, this  
22 is disorderly?

23 A. Well, yeah, like I said, when I  
24 originally talked to Marcus I mean that would have  
25 really been the only charge that you could have

1 charged him with, you know based on his conduct, so I  
2 think we were all -- I mean you don't really have to  
3 say it, but you all kind of, you're on, everybody is  
4 on the same page, I mean you know what's going on,  
5 police officers is what I was talking about, you know.

6 Q. Okay.

7 A. I mean we didn't actually -- Like I  
8 said I don't remember if we, you know, got together  
9 and we were like, you know, this is what we're going  
10 to do, this is how we're going to do it, I don't think  
11 that happened, I don't remember.

12 Q. Okay. So who actually filed the  
13 complaint against Mr. Moore?

14 A. I signed the complaint, we were the  
15 transporting officers. I would imagine, I guess  
16 Marcus if he would have wanted to, he could have come  
17 to the Justice Center and signed the complaint. It's  
18 easier, it was easier for us to go down. Like I said  
19 he had some disorderly behavior with me, also, so it  
20 was just as easy for me to sign the complaint.

21 (Complaint, marked for identification as  
22 Plaintiff's Exhibit 2.)

23 Q. Okay. Let me show you what has been  
24 previously marked as Plaintiff's Exhibit 2. Do you  
25 recognize that document, Officer?

A. Yes, this is the complaint that I



1 intentions were.

2 Q. Okay. Was it your perception that  
3 Officer McNeil was of that same mind set?

4 A. Oh, yeah, yeah.

5 Q. The sign wasn't at issue when you made  
6 the arrest, is that correct?

7 A. No. If the sign would have been at  
8 issue, if I would have been trying to enforce the  
9 sign, I would have just towed his truck.

10 Q. It was actually, it was actually Mr.  
11 Moore's behavior that was at issue, correct?

12 A. Yes.

13 Q. That's yes?

14 A. Yes.

15 Q. And no one from Kroger's directed you  
16 to do anything with respect to Mr. Moore on this day?

17 A. No.

18 D: That's all the questions I have.

19 MR. HARRIS: Just a few questions.

20 DIRECT EXAMINATION

21 BY MR. HARRIS:

22 Q. Officer, did you have concerns about  
23 the crowd, you may have asked that, concerns about  
24 the crowd that you saw when you arrived?

25 A. Well, like I said, obviously when you

2917.11(A) DISORDERLY CONDUCT

CASE NO.

PL-3 2  
61-142-2047

# COMPLAINT

## HAMILTON COUNTY MUNICIPAL COURT

**ARRESTED**  
THE DEFENDANT HEREIN  
WAS PHYSICALLY ARRESTED  
DATE

STATE OF OHIO vs.

ANTONIO MOORE

3740 WASHINGTON AV.

(Address)

CINT, OH 45229

PO SCHULTE #721

ANTONIO MOORE

being first duly cautioned and sworn, deposes and says that

on or about 06/21/02, in Hamilton

(date)

County, and State of Ohio, did recklessly cause \* ~~LOSS OF BALANCE~~ to another by \*\* ENGAGING IN CONDUCT

THAT WAS PHYSICALLY OFFENSIVE TO PERSONS &amp; SERVED NO LAWFUL PURPOSE.

contrary to and in

violation of Section 2917.11(A) of the Revised Code of Ohio, a \*\*\* M-4

The complainant states that this complaint is based on SUBJECT WAS PARKED IN A POSTED SPOT RESERVED FOR POLICE OFFICERS DUE TO SUB-STATION. WHEN TOLD TO MOVE NUMEROUS TIMES, SUBJECT REFUSED CAUSING A GROUP OF PATRONS TO GATHER. SUBJECT STATED THAT HE WANTED TO PROVE A POINT.

Sworn to and subscribed before me this 6-21-02

Notary Public/Deputy Clerk/Judge

(Complainant)

Filed

JAMES CISELL

Clerk of the Hamilton County Municipal Court

(Address)

By

Deputy Clerk

INSERT ONE OF THE FOLLOWING:

\*"inconvenience", "annoyance" or "alarm"

\*\*"engaging in fighting", "engaging in threatening harm to (persons) (property)", "engaging in (violent) (turbulent) behavior", "making unreasonable noise", "making an offensively coarse (utterance) (gesture) display)", "communicating unwarranted and grossly abusive language to (victim's name)", "(insulting) (taunting) (challenging) (victim's name) under circumstances in which such conduct was likely to provoke a violent response", "(hindering) (preventing) the movement of persons on a public (street) (road) (highway) (right-of-way) as to interfere with the rights of others, by an act which served no lawful and reasonable purpose", "(hindering) (preventing) the movement of persons (to) (from) (within) (upon) public/private property, so as to interfere with the rights of others, by an act which served no lawful and reasonable purpose", "creating a condition which was physically offensive to some persons by an act which served no lawful and reasonable purpose" or "creating a condition which presented a risk of physical harm to (persons) (property) by an act which served no lawful and reasonable purpose"

\*\*\*"minor misdemeanor" or "misdemeanor of the 4th degree" if the defendant persisted in disorderly conduct after reasonable warning request to desist